

ESTTA Tracking number: **ESTTA487326**

Filing date: **08/06/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	YOLO Board LLC		
Entity	LLC	Citizenship	FL
Address	820 N. County Hwy 393 Santa Rosa Beach, FL 32459 UNITED STATES		

Correspondence information	Betsy San Miguel YOLO Board LLC 820 N. County Hwy 393 Santa Rosa Beach, FL 32459 UNITED STATES betsysanmiguel@gmail.com Phone:770-853-7529
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Registration Subject to Cancellation

Registration No	3846051	Registration date	09/07/2010
Registrants	Hagen III, Delbert 833 Cagua Drive S.E. Albuquerque, NM 87108 UNITED STATES Hagen, Eric 833 Cagua Drive S.E. Albuquerque, NM 87108 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2009/06/30 First Use In Commerce: 2009/08/01
All goods and services in the class are cancelled, namely: Belts; Hats; Shoes; Sweat shirts; T-shirts

Grounds for Cancellation

Abandonment	Trademark Act section 14
Other	petitioner is damaged by being prohibited from entering into valid consent agreement with owner of similar mark

Attachments	Petition to Cancel YOLLO1.txt (2 pages)(3921 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by USPS Express Mail Post Office to Addressee on this date.

Signature	/betsysanmiguel/
Name	Betsy San Miguel
Date	08/06/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
In the matter of trademark Registration No...3846051..
For the mark.....YOLLO s.l.i
Date registered....09/07/2010.....
YOLLO Board, LLC

)
Petitioners

)
Cancellation No. _____

)
v.

)
PETITION TO CANCEL

)
YOLLO S.L.I.

)
Registrant

)
PETITION TO CANCEL
Petitioner, Yolo Board LLC is the owner of U.S Registration 3473154 for YOLO BOARD that was issued on July 22, 2008 and has an address at 820 N. County Hwy 393, Santa Rosa Beach, FL 32459 (Petitioner). To the best of Petitioners knowledge, the name and address of the current owner of US Registration No. 3846051 for YOLLO (the Registration) are Eric Hagen and Delbert Hagen III with an address at 833 Cagua Drive S.E. Albuquerque, NM 87108 (Registrant). Petitioner is currently and will continue to be damaged by the Registration and hereby petitions to cancel the same. The grounds for cancellation are as follows:

1. Petitioner operates a business under the name YOLO Board LLC and also operates a website the domain name www.yoloboard.com. The petitioner sells standup paddleboards, apparel, accessories and sports bags and other related items under the trademarks YOLO BOARD with additional applications for the trademark YOLO now published for opposition. Petitioner has invested a significant amount of money in developing and promoting its business. Petitioner believes that the registration of the mark YOLLO in international class 025 for use in connection with "belts, hats, shoes, sweatshirts, t-shirts" will jeopardize petitioner's ability to use the marks YOLO and YOLO BOARD to adequately distinguish Petitioner's goods and services.

2. Petitioner has been using the mark YOLO and YOLO BOARD since at least March 1, 2007, and has secured the following: Registration No. 3473154 for YOLO BOARD on July 22, 2008, Registration. No. 3596410 for YOLO Yak on March 24, 2009, Registration No. 4182365 for YOLO on July 31, 2012, Registration No. 4182358 for YOLO Board on July 31, 2012, and Registration No. 4182359 for YOLO on July 31, 2012.

3. On information and belief, YOLLO S.L.I is not engaged in commerce using the mark YOLLO and they have not been since prior to the registration date of the mark. Multiple requests were made via email and certified mail to make a determination if the mark is actively being used with no response. Apparel cannot be purchased from the

YOLLO S.L.I. website and they have no bricks and mortar location. Their website displays a last access to update on June 8, 2011 with no material update occurring at that time and prior to that the only post is from October 14, 2009 stating coming soon. First use in commerce was claimed on August 1, 2009.

4. YOLLO S.L.I. also damages Petitioner by inhibiting Petitioners ability to enter into a consent agreement with YOLO Sportswear, owner of registration #3391761. The registration of the mark of YOLO Sportswear and YOLLO S.L.I. are potentially confusingly similar and YOLO Sportswear is actively using the mark in commerce and their registration was established March 4, 2008 with a first use April 1, 1996. The mark and legitimate registration of YOLO Sportswear precedes the mark of YOLLO S.L.I. and Petitioner cannot prudently enter into an agreement with YOLO Sportswear when two registrants exist for marks that are confusingly similar.

Claim for Relief

Considering the foregoing, the mark YOLLO has been abandoned. According to the mark YOLLO is not valid and should be canceled pursuant to 15 USC 1064.

Wherefore

for the reasons stated above, petitioner requests that Registration No. 3846051 be canceled as void and invalid.

By Betsy San Miguel

Date

August 6, 2012

(partner in YOLO Board, LLC)